April 8, 2004

Public Information Room
Office of the Comptroller of the Currency
250 E Street, SW
Mailstop 1-5
Washington, DC 20219
Attention: Docket No. 04-05

Fax: 202-874-4448
e-mail: regs.comments@occ.treas.gov

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: EGRPRA Burden Reduction Comments

Website: http://www.fdic.gov/
e-mail: comments@fdic.gov

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. R-1180

Fax: 202-452-3819
e-mail: regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2003-67

Fax: 202-906-6518
e-mail: regs.comments@ots.treas.gov

Re: EGRPRA Review of Consumer Protection Lending Related Rules

Dear Sir or Madam:

As a local community banker, I greatly welcome the regulators' effort on the critical problem of regulatory burden. Community bankers work hard to establish the trust and confidence with our customers that are fundamental to customer service, but consumer protection rules frequently interfere with our ability to serve our customers. The community banking industry is slowly being crushed under the cumulative weight of regulatory burden, something that must be addressed by Congress and the regulatory agencies before it is too late. This is especially true for consumer protection lending rules, which though well intentioned, unnecessarily increase costs for consumers and prevent banks from serving our customers. While each individual requirement may not be burdensome in and of itself, the cumulative impact of consumer lending rules, by driving up costs and slowing processing time for loans from legitimate lenders, helps create a fertile ground for predatory lenders. It's time to acknowledge that consumer protection regulations are not only a burden to banks but are also a problem for consumers.

Truth in Lending (Federal Reserve Regulation Z)

Right of Rescission: One of the most burdensome requirements is the three-day right of rescission under Regulation Z. Rarely, if ever, does a consumer exercise the right. In my 35 plus years in banking, I have seen it happen only twice, both times due to the consumer's decision not to use the contractor they had selected for some home improvements. Consumers resent having to wait three additional days to receive loan proceeds after the loan is closed, and they often blame the bank for "withholding" their funds. Even though this is a statutory requirement, inflexibility in the regulation making it difficult to waive the right of

rescission aggravates the problem. If not outright repealed, depository institutions should at least be given much greater latitude to allow customers to waive the right.

Finance Charges: Another problem under Regulation Z is the definition of the finance charge. Assessing what must be included in - or excluded from - the finance charge is not easily determined, especially fees and charges levied by third parties. And yet, the calculation of the finance charge is critical in properly calculating the annual percentage rate (APR). This process desperately needs simplification so that all consumers can understand the APR and bankers can easily calculate it.

Many years ago, I created a Reg Z – Fee Chart which has been continuously updated, however, I cannot answer one question on Finance Charges or the APR without this chart. I would be glad to share it with anyone, in the hopes that the regulators would use it as a base model from which to start to fully identify all components of the Finance Charge and APR, not only for bankers, but for our customers as well. The chart created by Mr. Alan Dombrow is out-dated and needs to be replaced with a much more detailed and descriptive chart. A new chart should be easily read and understand by bankers and our customers, and should be shared with the customer to help explain the components of the APR and Finance Charge.

Credit Card Loans: Resolution of billing-errors within the given and limited timeframes for credit card disputes is not always practical. The rules for resolving billing-errors are heavily weighted in favor of the consumer, making banks increasingly subject to fraud as individuals learn how to game the system, even going so far as to do so to avoid legitimate bills at the expense of the bank. There should be increased penalties for frivolous claims and more responsibility expected of consumers.

Equal Credit Opportunity Act (Federal Reserve Regulation B)

Regulation B creates a number of compliance problems and burdens for banks. Knowing when an application has taken place, for instance, is often difficult because the line between an inquiry and an application is not clearly defined.

Spousal Signature: Another problem is the issue of spousal signatures. The requirements make it difficult and almost require all parties - and their spouses – to come into the bank personally to complete documents. This makes little sense as the world moves toward new technologies that do not require physical presence to apply for a loan. Just look at how many of the big banks have 1-800 call centers that take all the information over the phone. And if the customer comes in to sign the loan documents at the closing of the loan, isn't that enough in today's world to indicate that they did apply for the loan. We should be required to use some form of application for ALL types of loans, and try to have the application signed at closing of the loan, that should be sufficient. However, there may be times that the actual application cannot or does not get signed at the loan closing. I think with the changes to the regulation acknowledging that a "Financial Statement" is not to be used or considered as an application should settle the joint application issue. If not, require a form to be signed with ALL loans and by ALL parties, signifying that they are a willing borrower or co-borrower, similar to the required Co-signer/Guarantor notice!

Adverse Action Notices: Another problem is the adverse action notice. It would be preferable if banks could work with customers and offer them alternative loan products if they do not qualify for the type of loan for which they originally applied. However, that may then trigger requirements to supply adverse action notices. For example, it may be difficult to decide whether an application is truly incomplete or whether it can be considered "withdrawn." A straightforward rule on when an adverse action notice must be sent - that can easily be understood - should be developed.

Other Issues: Regulation B's requirements also complicate other instances of customer relations. For example, to offer special accounts for seniors, a bank is limited by restrictions in the regulation. And, most important, reconciling the regulation's requirements not to maintain information on the gender or race of a borrower and the need to maintain sufficient information to identify a customer under section 326 of the USA PATRIOT Act is difficult and needs better regulatory guidance. In these times, banks should be

allowed to obtain and maintain copies of a customer's driver's license in any file, including a loan file. Additionally, the requirement under the USA Patriot Act to record & maintain the original "expiration date" of the driver's license should be revisited.

Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)

Exemptions: The HMDA requirements are the one area subject to the current comment period that does not provide specific protections for individual consumers. HMDA is primarily a data-collection and reporting requirement and therefore lends itself much more to a tiered regulatory requirement. The current exemption for banks with less than $33 million in assets is far too low and should be increased to at least $250 million.

Volume of Data: The volume of the data that must be collected and reported is clearly burdensome. Ironically, at a time when regulators are reviewing burden, the burden associated with HMDA data collection was only recently increased substantially. Consumer activists are constantly clamoring for additional data and the recent changes to the requirements acceded to their demands without a clear cost-benefit analysis. All consumers ultimately pay for the data collection and reporting in higher costs, and regulators should recognize that.

Just when we thought we "Got it Right", the recent changes have thrown us into a reporting nightmare and have done very little to "clarify and simplify the rule". And then there are the rules for Home Equity Loan reporting versus Home Equity Lines of Credit. If any portion is for home improvement or home purchase, on a HEL we report the whole loan amount (even if some of the proceeds are not for that purpose), but on a HELOC, we report only the amount of the loan used for one of these purposes. This is typical of the confusion and inconsistency in the changes recently made to this regulation.

Certain data collection requirements are difficult to apply in practice and therefore add to regulatory burden and the potential for error, e.g., assessing loans against HOEPA (the Home Owners Equity Protection Act) and reporting rate spreads; determining the date the interest rate on a loan was set; determining physical property address or census tract information in rural areas, etc. If the regulators are looking for predatory lending practices, let them simply request the APR and the lien status, and ask whether or not Credit Life Insurance and/or A&H Insurance were sold with the loan. Having the banks compare the APR to a Treasury Security Rate and try to determine the "date" the rate was set, is meaningless to most bankers and consumers. It may make some sense to a numbers guru, but not to most of us.

Flood Insurance

The current flood insurance regulations create difficulties with customers, who often do not understand why flood insurance is required and that the federal government - not the bank - imposes the requirement. The government needs to do a better job of educating consumers to the reasons and requirements of flood hazard insurance. Flood insurance requirements should be streamlined and simplified to be understandable.

In addition, the Flood Determination form should be expanded to include questions about what the collateral for the loan will be, i. e., building only, contents only, or both, and if available at the time of the determination, questions about the loan amounts related to these items or the collateral value assigned to each, and then the service provider should estimate the amount of insurance coverage required, based upon the current requirements, and place an estimate on the Flood Determination form. In my 35 plus years in banking, we have only recently been asked about loans on our books that require flood insurance, however, most of our loans aren't in flood prone areas.

Additional Comments

It would be much easier for banks, especially community banks that have limited resources, to comply with regulatory requirements, if the requirements were based on products, and all the rules that apply to a

specific product were consolidated in one place. Second, regulators require banks to provide customers with understandable disclosures, i. e., our notices must be in plain language, yet they do not hold themselves to the same standard in drafting regulations, written in archaic legalese, that can be easily understood by bankers and our customers. Third, examiner training needs to be improved to ensure that regulatory requirements are properly - and uniformly - applied. And finally, individual bias and/or preconceived notions by the regulators should be eliminated.

Conclusion

The volume of regulatory requirements facing the banking industry today presents a daunting task for any institution, but severely saps the resources of community banks. **We need help immediately with this burden before it is too late.** Community bankers are in close proximity to their customers, understand the special circumstances of the local community, and provide a more responsive level of service than the mega-banks. However, community banks cannot continue to compete effectively and serve their customers and communities without some relief from the crushing burden of regulation. Thank you for the opportunity to comment on this critical issue.

Sincerely yours,

Karen A. Schoenbucher

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Vice President

CC: Rob Rowe, ICBA

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